

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Petition for Interim
Suspension Order Against:

COLONDA Y. ROBINSON, R.C.P.,

Respiratory Care Practitioner License No.
16705,

Respondent.

Case No. R-2074

OAH No. L2007050323

INTERIM SUSPENSION ORDER
(Gov. Code § 11529)

On May 30, 2007, in San Diego, California, Greer D. Knopf, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Douglas Lee, Deputy Attorney General, appeared and represented petitioner Stephanie Nunez, Executive Officer of the Respiratory Care Board, Department of Consumer Affairs, State of California.

Respondent Colonda Y. Robinson failed to appear and no one else appeared at the hearing on her behalf.

Evidence was received and oral argument was given. The record remained open for submission of additional evidence from petitioner. The record was closed and the matter was submitted on June 1, 2007.

FACTUAL FINDINGS

1. Petitioner Stephanie Nunez (petitioner) is the Executive Officer of the Respiratory Care Board (the Board) and she brought this action in her official capacity.
2. On December 6, 1993, the Board issued Respiratory Care Practitioner License No. 16705 (the license) to respondent Colonda Y. Robinson (respondent). The license was in full force and effect at all times relevant to this case and will expire on July 31, 2007, unless renewed.

3. On May 10, 2007, petitioner filed a Petition for Interim Order of Suspension (ISO petition) against respondent dated May 10, 2007. On May 15, 2007, Administrative Law Judge James Ahler (ALJ Ahler) heard petitioner's ex parte request for an Interim Order of Suspension (ISO). No one appeared at the ex parte hearing on behalf of respondent.

At the ex parte hearing, ALJ Ahler issued an ISO suspending respondent's Respiratory Care Practitioner License pending further order of the administrative court. The court's order also ordered respondent to appear for a hearing to show cause why the ISO should not remain in full force and effect pending the outcome of proceedings before the Board. The hearing to show cause on the ISO was set for May 30, 2007. Subsequently, petitioner served the ISO on respondent as well as the petition and the supporting points and authorities with exhibits and declarations.

4. Respondent was properly served with the ISO and had notice that the matter was set for hearing on May 30, 2007. However, respondent failed to file any response to the petition for ISO pursuant to Government Code section 11529 and failed to appear at the hearing.

5. The administrative court has read and considered all documents properly submitted by the parties and received into evidence. The following facts are established.

6. On March 13, 2007, respondent reported for work at her place of employment the Moreno Valley Community Hospital. Respondent worked as a respiratory care practitioner and cared for patients for several hours in that capacity. However, within three hours of arriving at work, she complained of a headache and chest pains. Respondent was taken to the Emergency Department for treatment. Respondent was uncooperative with emergency room personnel and she displayed signs of being disoriented. Several tests were performed on respondent at the hospital in an effort to determine the cause of respondent's symptoms. When the laboratory results came back they showed respondent's blood alcohol content to be 0.28 percent. This is more than three times the legal limit for driving a motor vehicle. As a result of respondent's extremely high blood alcohol content, the treating physician recommended respondent be admitted into the hospital for further care and treatment. Respondent refused to be admitted to the hospital saying she did not have any health insurance. Moreno Valley Community Hospital immediately placed respondent on administrative leave from her employment. Subsequently, respondent resigned her position at the hospital.

7. Respondent's former supervisor at the hospital, Harnek Heer (Heer), a licensed Respiratory Care Technician, submitted a declaration herein. Heer clearly states that respondent's actions in reporting to work in such an intoxicated state "placed patients in jeopardy" and constituted a "complete disregard for the professional standards that a respiratory therapist must maintain." He further opined that respondent's intoxicated condition put patients at risk.

8. On May 14, 2007, respondent submitted a letter to the Board admitting that she had been drinking alcohol on March 13, 2007 prior to reporting to work. Respondent states however that she was drinking because she was under a great deal of stress related to family and financial problems. She further states that since this incident she has been attending church sponsored AA meetings and she claims she is not a threat to herself or her patients. She claims she is no longer abusing alcohol and learning how to better deal with stress.

9. Respondent failed to file any opposition to the petition for an ISO. Petitioner has established that there is a reasonable probability that petitioner will prevail in the underlying disciplinary action that has been filed. In addition, petitioner has established that respondent reported to work in an extremely intoxicated condition. This conduct demonstrates a serious disregard for the public trust and clearly establishes that respondent poses a risk of serious injury to the public health, safety, and welfare if she is allowed to continue to work as a respiratory care practitioner. The likelihood of injury to the public in not suspending respondent's license outweighs the likelihood of injury to the licensee in suspending respondent's license.

LEGAL CONCLUSIONS

All conclusions are based on Factual Findings 1-9.

1. There is a reasonable probability that petitioner will prevail in the underlying action.
2. The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.
3. There is sufficient evidence to establish that respondent has engaged in acts or omissions constituting violations of the Medical Practice Act, and permitting respondent to continue to engage in the practice of respiratory care will endanger the public health, safety, and welfare.
4. There is sufficient evidence to show that respondent cannot practice respiratory care without an unacceptable risk of harm to the public.
5. There is insufficient evidence to the contrary, and no evidence to show that respondent can practice respiratory care without an unacceptable risk of harm to the public.

ORDER

Respiratory Care Practitioner License No. 16705 issued to respondent Colonda Y. Robinson, R.C.P. is hereby SUSPENDED.

DATED:

6/6/07



GREER D. KNOFF
Administrative Law Judge
Office of Administrative Hearings